



Signed and Filed: July 4, 2012

A handwritten signature in dark ink, appearing to read "T. E. Carlson".

THOMAS E. CARLSON
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re)	Case No. 11-32059 TEC
)	
EDWARD P. STURT-PENROSE, and)	Chapter 11
HEATHER L. GIBBONS,)	
)	
)	
Debtors.)	
)	
)	
)	

MEMORANDUM RE UST'S MOTION TO CONVERT CASE TO CHAPTER 7

On May 25, 2012, the court held a hearing on the United States Trustee's motion to convert case to chapter 7 (the "Motion to Convert"). Minnie Loo appeared for the United States Trustee and James F. Beiden appeared for Debtors in support of converting this case to chapter 7. Selwyn D. Whitehead appeared for Crystal Delligatti and Mark J. Romeo appeared for Steven Moss and Debbie Findling (collectively, the "Creditors") in support of retaining this case in chapter 11 to solicit votes on the Creditor's plan.

Upon due consideration, and for the reasons stated on the record at the hearing, the court hereby resolves the motion as follows:

(1) The Motion to Convert should be granted, because Debtors

1 have the right to convert this case to chapter 7, see 11 U.S.C.
2 § 1112(a), because the property to be liquidated is not unique
3 and does not require specialized expertise to sell, and because
4 this is the type of liquidation that a chapter 7 trustee regularly
5 performs.

6 (2) The concerns raised by the Creditors in opposition to the
7 Motion to Convert are not well founded if this case is converted to
8 chapter 7: a chapter 7 trustee may pursue the potential fraudulent
9 transfer action against Mara Sturt-Penrose under 11 U.S.C. § 548;
10 the deadline to object to Debtors' exemptions in this case resets
11 upon conversion to chapter 7, see Fed. R. Bankr. Pro. 1009(2)(B);
12 any party-in-interest may bring an action to equitably subordinate
13 a claim of Debtors under 11 U.S.C. § 510; and the Creditors may
14 attempt to elect the chapter 7 trustee under 11 U.S.C. § 702.

15 ****END OF MEMORANDUM****
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Court Service List

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